

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WESLIE MARTIN,

Case No. 3:23-cv-00236-ART-CLB

V

Plaintiff,

ORDER

ESOUIVEL, et al..

## Defendants.

In June 2023, Plaintiff Weslie Martin, then an inmate in the custody of the Nevada Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 1. On September 21, 2023, this Court issued a screening order and stayed the case to give the parties an opportunity to settle their dispute. ECF No. 7. On September 28, 2023, Interested Party NDOC filed a suggestion of death on the record, informing the Court that Plaintiff has passed away. ECF No. 12.

Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). As such, if there is no motion for substitution within 90 days of the date of this order, the Court will dismiss the case.

24 For the foregoing reasons, it is ordered that the Court will dismiss this case  
25 in 90 days if there is no motion to substitute filed pursuant to Federal Rule of  
26 Civil Procedure 25(a)(1).

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1 It is further ordered that the application to proceed *in forma pauperis* (ECF  
2 No. 1) is denied as moot.

3 DATED THIS 10<sup>th</sup> day of October 2023.

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6 ANNE R. TRAUM  
7 UNITED STATES DISTRICT JUDGE  
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